

Application No. 10/809,823
Paper Dated: October 15, 2007
In Reply to USPTO Correspondence of June 14, 2007
Attorney Docket No. 0470-043794

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/809,823
Applicants : Frank Petrus Nicolaas ROET, et al.
Filed : March 25, 2004
Title : INSTALLATION FOR THE PREPARATION OF HOT
WATER
Group Art Unit : 3749
Examiner : Derek Boles
Confirmation No. : 7812
Customer No. : 28289

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MAIL STOP AF
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Included with this Request is a Petition for Extension of Time extending by one month, until Sunday, October 14, 2007, the period in which to file a response to the outstanding Office Action. Since October 14 is a Sunday, the period for response extends to the first business day thereafter, which is Monday, October 15, 2007.

For the reasons set forth herein, Applicants respectfully submit that the Office Action dated June 14, 2007 is based on improper rejections of the claims and does not establish the asserted *prima facie* case of anticipation or obviousness based on the cited references.

I. Rejection of Claims 9, 12, 16, 21 and 22 under 35 U.S.C. §102(b) as being anticipated by the teaching of United States Patent No. 4,248,378 to Carruthers (hereinafter the “Carruthers patent”).

The claimed invention, as set forth in independent claim 9, is directed to an installation for the preparation of hot water and includes a cold water reservoir, a heating unit, a cold water pipe between the cold water reservoir and the heating unit, a draw-off point for drawing off hot water, a hot water pipe between the heating unit and the draw-off point, a pump for making water flow from the cold water reservoir through the cold water pipe, the heating unit and the hot water pipe to the draw-off point, and a vent pipe connected to at least one of the cold water pipe and the hot water pipe. Additionally, as presently claimed in independent claim 9, the vent pipe runs upwards to the level above the highest water level in the installation and runs downwards from the level, and the section of vent pipe running downwards discharges above the cold water reservoir.

The Examiner asserts that the Carruthers patent, as illustrated in FIG. 2, and as discussed in column 3, lines 10-32 of both pipes 25 and 26 are considered one vent pipe. Furthermore, the Examiner indicates that with respect to FIG. 2, it is clear vent pipe 26 discharges above the cold water reservoir.

The applicants respectfully disagree and in particular, Carruthers teaches the use of two separate pipes 25, 26 connected to each other by self-priming device 1. Because of the interruption of this self-priming device 1, the two pipes will never be considered as a single pipe, conduit, or the like, but as two separate components in the system according to the Carruthers patent. The self-priming device 1 comprises a chamber 5 which in operation is filled with air and provides a separation between the primary and secondary circuit.

While during operation air forms in the pipe 25, the air will be “absorbed” by the buffer-like operation of the self-priming device 1. The same is true when, for example, water condenses in the pipe 25 during operation. This also will be absorbed by the self-priming device 1.

Therefore, the effect reached by the device in accordance with the Carruthers patent is entirely different from the effect reached by the system according to the present application. The invention in accordance with the present application is directed to a heating system provided with a single piece vent pipe, which directly opens above a cold water reservoir for venting air or (condensed) water. Such an arrangement is neither taught nor suggested by the Carruthers patent. For this reason, claim 9 is not believed to be anticipated or suggested by the teaching of the Carruthers patent. Furthermore, by way of their dependence upon what is believed to be patentably distinct independent claim 9, dependent claims 10-22 are patentably distinct over the prior art of record.

II. Rejection of Claim 10 under 35 U.S.C. §103(a) as being obvious from the teaching of the Carruthers patent.

By way of its dependence upon what is believed to be patentably distinct, independent claim 9, dependent claim 10 is believed to be patentably distinct over the prior art of record.

III. Rejection of Claims 11 and 13 under 35 U.S.C. §103(a) as being obvious in view of the teaching of the Carruthers patent.

By way of their dependence upon what is believed to be patentably distinct independent claim 9, dependent claim 11 and 13 are believed to be patentably distinct over the prior art of record.

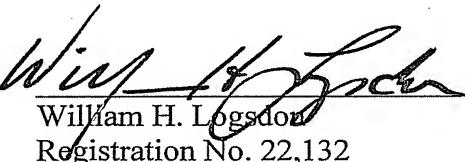
IV. Conclusion

Based upon the above-specified clear error of inappropriate combination of references, the Applicants assert that a *prima facie* rejection based upon anticipation and obviousness has not been established with respect to claims 19, 20, and 22-36. Withdrawal of the rejections and allowance of these claims are respectfully requested.

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The Commissioner is authorized to charge any additional fees which may be required to Deposit Account No. 23-0650. Please refund any overpayment to Deposit Account No. 23-0650.

Respectfully submitted,
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